

1 FLETCHER B. BROWN (SBN 276390)
2 **FLETCHER B. BROWN LAW FIRM**
3 2831 Telegraph Ave.
4 Oakland, CA 94609
5 Tel: 510-986-0441
6 Fletcher@fletcherbrown.law

7 Attorney for Plaintiff David Martinez

8 ELLEN M. BRONCHETTI (SBN 226975)
9 **GREENBERG TRAUIG, LLP**
10 12760 High Bluff Drive, Suite 240
11 San Diego, CA 92130
12 Telephone: (619) 848.2523
13 Facsimile: (949) 732.6501
14 ellen.bronchetti@gtlaw.com

15 Attorney for Defendant
16 Amazon.com Services, LLC

17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**

19 DAVID MARTINEZ,

20 Plaintiff,

21 v.

22 AMAZON.COM SERVICES, LLC

23 Defendants.

CASE NO.: 2:24-CV-01157-DJC-CKD

**STIPULATED PROTECTIVE ORDER;
ORDER**

HON. DANIEL J. CALABRETTA

I. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section XIII(C), below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 141.1 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

II. GOOD CAUSE STATEMENT

This action is likely to involve trade secrets, communications about confidential trade practices, communications containing sensitive personal and business information, communications containing employment related negotiations, confidential employment related contracts, and other valuable research, development, commercial, financial, technical and/or proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. The parties may seek discoverable information from third-party business competitors, who could be financially harmed by the public release of their business strategy information. Such confidential and proprietary materials and information consist of, among other things, confidential business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes

1 over confidentiality of discovery materials, to adequately protect information the parties are entitled
2 to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such
3 material in preparation for and in the conduct of trial, to address their handling at the end of the
4 litigation, and serve the ends of justice, a protective order for such information is justified in this
5 matter. It is the intent of the parties that information will not be designated as confidential for
6 tactical reasons and that nothing be so designated without a good faith belief that it has been
7 maintained in a confidential, non-public manner, and there is good cause why it should not be part
8 of the public record of this case.

9 **III. DEFINITIONS**

10 a) Action: this pending federal lawsuit.

11 b) Challenging Party: a Party or Non-Party that challenges the designation of
12 information or items under this Order.

13 c) “CONFIDENTIAL” Information or Items: information (regardless of how it is
14 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
15 of Civil Procedure 26(c).

16 d) Counsel: Outside Counsel of Record and House Counsel (as well as their support
17 staff).

18 e) Designating Party: a Party or Non-Party that designates information or items that it
19 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

20 f) Disclosure or Discovery Material: all items or information, regardless of the
21 medium or manner in which it is generated, stored, or maintained (including, among other things,
22 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
23 responses to discovery in this matter.

24 g) Expert: a person with specialized knowledge or experience in a matter pertinent to
25 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
26 consultant in this Action.

h) House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

i) Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

j) Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff.

k) Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

l) Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

m) Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

n) Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

o) Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

IV. SCOPE

a) The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

b) Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

1 **V. DURATION**

2 Even after final disposition of this litigation, the confidentiality obligations imposed by this
3 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
4 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
5 defenses in this Action, with or without prejudice; and (2) final judgment herein after the
6 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
7 including the time limits for filing any motions or applications for extension of time pursuant to
8 applicable law.

9 **VI. DESIGNATING PROTECTED MATERIAL**

10 a) Exercise of Restraint and Care in Designating Material for Protection.

11 1. Each Party or Non-Party that designates information or items for protection under
12 this Order must take care to limit any such designation to specific material that qualifies under the
13 appropriate standards. The Designating Party must designate for protection only those parts of
14 material, documents, items, or oral or written communications that qualify so that other portions of
15 the material, documents, items, or communications for which protection is not warranted are not
16 swept unjustifiably within the ambit of this Order.

17 2. If it comes to a Designating Party's attention that information or items that it
18 designated for protection do not qualify for protection, that Designating Party must promptly notify
19 all other Parties that it is withdrawing the inapplicable designation.

20 b) Manner and Timing of Designations:

21 1. Except as otherwise provided in this Order (see, e.g., b(2) below), or as otherwise
22 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order
23 must be clearly so designated before the material is disclosed or produced.

24 2. Designation in conformity with this Order requires:

25 a) For information in documentary form (e.g., paper or electronic documents,
26 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
27 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter
28

1 “CONFIDENTIAL legend”) to each page that contains protected material. If only a portion
2 or portions of the material on a page qualifies for protection, the Producing Party also must
3 clearly identify the protected portion(s) (e.g., by making appropriate markings in the
4 margins).

5 b) A Party or Non-Party that makes original documents available for inspection
6 need not designate them for protection until after the inspecting Party has indicated which
7 documents it would like copied and produced. During the inspection and before the
8 designation, all of the material made available for inspection shall be deemed
9 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
10 copied and produced, the Producing Party must determine which documents, or portions
11 thereof, qualify for protection under this Order. Then, before producing the specified
12 documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page
13 that contains Protected Material. If only a portion or portions of the material on a page
14 qualifies for protection, the Producing Party also must clearly identify the protected
15 portion(s) (e.g., by making appropriate markings in the margins).

16 c) For testimony given in depositions, that the Designating Party identify the
17 Disclosure or Discovery Material before the close of the deposition.

18 d) For information produced in some form other than documentary and for any
19 other tangible items, that the Producing Party affix in a prominent place on the exterior of
20 the container or containers in which the information is stored the legend
21 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
22 the Producing Party, to the extent practicable, shall identify the protected portion(s).

23 c) **Inadvertent Failures to Designate.**

24 If timely corrected an inadvertent failure to designate qualified information or items does
25 not, standing alone, waive the Designating Party’s right to secure protection under this Order for
26 such material. Upon timely correction of a designation, the Receiving Party must make reasonable
27 efforts to assure that the material is treated in accordance with the provisions of this Order.
28

VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS

a) Timing of Challenges.

Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

b) Meet and Confer.

The Challenging Party shall initiate the dispute resolution process under Local Rule 251 et seq and the Honorable Judge's Standing Orders or follow the procedures for informal, telephonic discovery hearings on the Court's website.

c) The burden of persuasion in any such challenge proceeding shall be on the Designating Party.

Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

VIII. ACCESS TO AND USE OF PROTECTED MATERIAL

a) Basic Principles.

A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section XIV below (FINAL DISPOSITION). Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

b) Disclosure of "CONFIDENTIAL" Information or Items.

Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

1. The Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;
2. The officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;
3. Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);
4. The court and its personnel;
5. Court reporters and their staff;
6. Professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);
7. The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;
8. During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the "Acknowledgment and Agreement to Be Bound" form attached as **Exhibit A** hereto; and (2) they will not be permitted to keep any confidential information unless they sign **Exhibit A**, unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and
9. Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions; and

10. Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered.

IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

a) If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

1. Promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;
2. Promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and
3. Cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.
4. If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

X. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in

1 connection with this litigation is protected by the remedies and relief provided by this Order.
2 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
3 protections.

4 b) In the event that a Party is required, by a valid discovery request, to produce a Non-
5 Party's confidential information in its possession, and the Party is subject to an agreement with the
6 Non-Party not to produce the Non-Party's confidential information, then the Party shall:

7 1. Promptly notify in writing the Requesting Party and the Non-Party that some
8 or all of the information requested is subject to a confidentiality agreement with a
9 Non-Party;

10 2. Promptly provide the Non-Party with a copy of the Stipulated Protective
11 Order in this Action, the relevant discovery request(s), and a reasonably specific
12 description of the information requested; and

13 3. Make the information requested available for inspection by the Non-Party,
14 if requested.

15 4. If the Non-Party fails to seek a protective order from this court within 14
16 days of receiving the notice and accompanying information, the Receiving Party
17 may produce the Non-Party's confidential information responsive to the discovery
18 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
19 not produce any information in its possession or control that is subject to the
20 confidentiality agreement with the Non-Party before a determination by the court.
21 Absent a court order to the contrary, the Non-Party shall bear the burden and
22 expense of seeking protection in this court of its Protected Material.

23 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

24 a) If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
25 Protected Material to any person or in any circumstance not authorized under this Stipulated
26 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party
27 of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
28

Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute **Exhibit A**.

XII. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

a) When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

XIII. MISCELLANEOUS

a) Right to Further Relief.

Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

b) Right to Assert Other Objections.

By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

c) Filing Protected Material.

A Party that seeks to file under seal any Protected Material must comply with Local Rule 140. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

XIV. FINAL DISPOSITION

After the final disposition of this Action, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section V (DURATION).

Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: July [x], 2024

FLETCHER B. BROWN LAW FIRM

By: /s/

Fletcher B. Brown

Attorney for Plaintiff, DAVID MARTINEZ

DATED: July [x], 2024

Greenberg Traurig, LLP

By:

Ellen Bronchetti

Attorney for Defendant

AMAZON.COM SERVICES, LLC

1 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

2
3 Dated: August 8, 2024



4 CAROLYN K. DELANEY
5 UNITED STATES MAGISTRATE JUDGE
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

I, _____, [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on [date] in the case of *David Martinez v. Amazon.com Services, LLC*, Case No. 2:24-cv-01157-DJS-CKD. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Eastern District of California for the purposes of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full address], of _____ as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____